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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,078	11/19/2003	Joseph C. Dille	10781.0040.NPUS00	1077
26720	7590	10/21/2005	EXAMINER	
LOCKE LIDDELL & SAPP LLP			MACK, COREY D	
ATTN. DOCKETING			ART UNIT	
600 TRAVIS #3400			PAPER NUMBER	
HOUSTON, TX 77002			2855	

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/707,078	Applicant(s) DILLE, JOSEPH C. 	
	Examiner Corey D. Mack	Art Unit 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13,21 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-13,21 and 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/03/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-7, 9-13, 21 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Drexel, et al. (US 5,253,520).

A. With respect to Claim 1, Drexel discloses a flow sensor tube assembly comprising a base member 22, 25 having first and second generally opposing sides; an opening 23 extending through the base member, the opening having first and second segments defining first and second diameters, respectively, the first diameter being greater than the second diameter; a flow sensor tube 19, 26 having an end received in the opening (at 11); a filler material 28 situated in the first segment of the opening surrounding the flow sensor tube adjacent the first side of the base member; and, the flow sensor tube being welded to the base member adjacent the second side of the base member (column 3, lines 41-52).

B. With respect to Claim 3, Drexel discloses that the filler material is situated in the first segment of the opening surrounding the flow sensor tube (column 3, lines 41-52; See Fig. 2).

C. With respect to Claims 4 and 5, Drexel discloses that a nipple defined by the second side of the base member 22, wherein the second segment of the opening is situated at least partially in the nipple (See Fig. 2).

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D. With respect to Claims 6, Drexel discloses that the second side of the base member 22 adjacent the opening is formed around the flow sensor tube 26 so as to eliminate a gap between the opening and the flow sensor tube (See Fig. 2).

E. With respect to Claim 7, Drexel discloses that nipple is formed around the flow sensor tube 26 so as to eliminate a gap between the opening and the flow sensor tube (See Fig. 2).

F. With respect to Claims 9 and 21, Drexel discloses that the assembly further comprises a second opening 23 extending through the base member 22, 25 (column 3, lines 19-28; See Fig. 1-2); a second end of the flow sensor tube 19, 26 being received in the second opening (at 12); a filler material 28 situated in the second opening surrounding the flow sensor tube adjacent the first side of the base member; and, the second end of the flow sensor tube being welded to the base member adjacent the second side of the base member (column 3, lines 41-52).

G. With respect to Claim 10, Drexel discloses a groove 30 defined in the first side of the base member surrounding the opening creating a raised boss adjacent the opening.

H. With respect to Claims 11, 12, 13, 24, 25 and 26, Drexel discloses that the filler material comprises a braze material, solder, and/or epoxy (column 3, lines 41-52).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Drexel, et al. (US 5,253,520).

A. With respect to Claim 8, Drexel discloses the invention as claimed, except they do not explicitly disclose that a portion of the flow tube extends from the second side of the base member. However, extending a portion of the flow tube from the second side of the base member would have been well-within the mechanical knowledge of one of ordinary skill in the art of flow measuring at the time the invention was made for a variety of applications, such as coupling and mounting. (See MPEP § 2144.03). Therefore, at the time the invention was made, it would have been within the knowledge of one of ordinary skill in the art to include in Drexel extending the flow tube from the second side of the base member in order to better facilitate coupling and mounting of the flow tube.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey D. Mack whose telephone number is (571) 272-2181. The examiner can normally be reached on M-F, 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Corey D. Mack, Esq.
Patent Examiner
Art Unit 2855

October 19, 2005



HARSHAD PATEL
PRIMARY EXAMINER